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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 10 (b)

QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY

Mr. Decaux: draft resolution

1994/... Question of human rights and states of emergency

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolution 1983/18 of 22 February 1983, in which the Commission requested the Sub-Commission to propose measures designed to ensure respect throughout the world of human rights and fundamental freedoms in situations where states of siege or emergency exist, especially of those rights referred to in article 4, paragraph 2, of the International Covenant on Civil and Political Rights, prohibiting derogation from certain rights, even in time of public emergency,

Recalling also the following resolutions it has adopted on this question: 10 (XXX), 1983/28, 1983/30, 1985/32, 1987/25, 1988/24, 1989/28, 1990/19, 1991/18, 1992/22 and 1993/28,

Having taken note of the seventh revised annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, submitted by the Special Rapporteur, Mr. Leandro Despouy (E/CN.4/Sub.2/1994/23),

Bearing in mind that, in its resolution 1991/34 of 5 March 1991, the Commission on Human Rights invited the Sub-Commission to consider the question of the effectiveness of habeas corpus and similar remedies during states of emergencies and to formulate suggestions thereon,

Recalling that it requested the Special Rapporteur to make recommendations on the impact of emergency measures on non-derogable rights, and noting with satisfaction that in May 1994 he organized, for this purpose, an international expert meeting for an initial study process that deserves to be further explored,

1. Takes note with interest of the seventh annual revised report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, submitted by the Special Rapporteur (E/CN.4/Sub.2/1994/23) and notes with satisfaction that the Rapporteur is increasingly enjoying active cooperation from States, as well as competent bodies of the United Nations, the specialized agencies, non-governmental organizations and competent university institutes;

2. Notes with concern that, as apparent from the seventh report, dated 3 June, since 1 January 1985 a state of emergency has been proclaimed, extended or maintained in various forms on 196 occasions in States and territories, whereas in that same period, it has been terminated only 59 times;

3. Invites all States whose legislation does not contain any explicit provision guaranteeing the legality of the introduction of a state of emergency to adopt provisions in conformity with international rules and principles, as developed in the successive reports of the Special Rapporteur and endorsed by the Commission on Human Rights, and similarly invites States whose legislation explicitly provides for states of emergency to ensure that such legislation is in conformity with international rules on the matter;

4. Notes the increasing interest shown by States in receiving technical assistance concerning states of emergency and the rights which can not be derogated from in such circumstances, and expresses the hope that the Secretary-General will be able to respond promptly and effectively to requests from States in the context of advisory services in the field of human rights and through the Special Rapporteur;

5. Urges Governments, particularly those facing situations of internal unrest, to limit resort to a state of emergency exclusively to circumstances whose seriousness and exceptional character are such that they justify the introduction of such an emergency, and to combine such introduction with guarantees (notably with regard to proportionality, duration and the inalienability of non-derogable rights) intended to maintain respect for human rights, so as to prevent a state of emergency from becoming commonplace and from being unjustifiably perpetuated;

6. Notes with deep concern that, to deal with certain situations, including internal unrest or the threat of such unrest, some States do not hesitate to take emergency measures without officially proclaiming a state of emergency, and that such measures have serious repercussions on the enjoyment of human rights, and invites all States to ensure that no emergency measures, including suspension or limitation of certain basic rights, is taken without the corresponding state of emergency being officially proclaimed, in accordance with national law and international rules and principles;

7. Takes note with interest of the consultations entered into by the Special Rapporteur to devise principles to be followed for drafting legal provisions on states of emergency (March 1991) and to study non-derogable rights in states or situations of emergency (May 1994), encourages the Rapporteur to organize, in May 1995 in Geneva, a second expert meeting on the question of non-derogable rights to explore the matter further, and requests him to report on the results of the meeting at its forty-seventh session, in the context of his eighth report;

8. Also requests the Special Rapporteur to submit at that same session an updated list of States which have proclaimed, extended or terminated a state of emergency since 1 January 1985, so that, at its fifty-first session, the Commission on Human Rights will have the latest and most comprehensive possible information on the past 10 years;

9. Takes note of the consultations with institutions and experts already held by the Special Rapporteur in implementation of resolution 1993/28 on the subject of receiving, storing and retrieving information, through a databank, on states of emergency and related human rights questions, and invites him to pursue

and broaden such consultations in early 1995 so as to report on the results at its forty-seventh session;

10. Requests the Secretary-General to place at the disposal of the Special Rapporteur all the human and material resources needed to carry out his mandate in accordance with the foregoing;

11. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Endorsing Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/..., dated ... August 1994,

Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling Commission on Human Rights, resolution 1995/..., dated ... 1995 and Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/..., dated ... August 1994, entitled "Question of human rights and states of emergency",

1. Approves the Sub-Commission's requests made to the Special Rapporteur on the question of human rights and states of emergency to fulfil his mandate, notably those relating to the holding of an expert meeting (i) to study non-derogable rights in states or situations of emergency and to international principles to be taken into account in drafting national legal rules, and (ii) to establish a data on states of emergency and related human rights questions,

2. Requests the Secretary-General to place at the disposal of the Special Rapporteur the human and material resources needed to fulfil his mandate in accordance with the foregoing.

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
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of Minorities
Forty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Mr. Bengoa, Mr. Bossuyt, Mr. Chernichenko, Ms. Daes, Mr. Decaux, Mr. Fan, Mr. Fix Zamudio, Ms. Forero Ucros, Ms. Gwanmesia, Mr. Hakim, Mr. Hatano, Mr. Khalil, Mr. Khan, Mr. Lindgren Alves, Mr. Maxim, Ms. Palley, Mr. Ramadhane, and Mr. Yimer: draft resolution

Traditional practices affecting the health of women and children

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1991/23 of 29 August 1991 and 1993/33 of 25 August 1993,

Recalling also Commission on Human Rights decision 1994/104 of 4 March 1994, by which the Commission endorsed the recommendations of the Sub-Commission,

Taking note with appreciation of the report of the second United Nations Regional Seminar on Traditional Practices affecting the Health of Women and

Children (E/CN.4/Sub.2/1994/10 and Corr.1) and in particular of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1),

1. Expressing its appreciation to the Government of Sri Lanka for hosting the second United Nations Regional Seminar on traditional practices affecting the health of women and children at Colombo from 4 to 8 July 1994;

2. Expresses its deep appreciation to the Special Rapporteur, Ms. Halima Embarek Warzazi, for her constructive contribution to the seminar and specifically to the elaboration of the Programme of Action;

3. Adopts the Programme of Action on Traditional Practices affecting the Health of Women and Children submitted by the Special Rapporteur (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1);

4. Decides to recommend that the Commission on Human Rights extend the mandate of the Special Rapporteur for two more years, in order to enable her to undertake an in-depth study to assess, inter alia, the differences and the similarities between traditional practices affecting the health of women and children in many parts of the world, taking into consideration, among other relevant documents and information, the conclusions and recommendations of the two regional seminars and the effects of the implementation of the Plan of Action;

5. Requests the Secretary-General to transmit the Plan of Action to the International Conference on Population and Development, to be held in Cairo in September 1994, and to the Fourth World Conference on Women, to be held in Beijing in 1995, as well as to all competent organs and bodies of the United Nations system and to all intergovernmental and non-governmental organizations concerned;

6. Requests the Special Rapporteur to submit her preliminary report at the forty-seventh session and her final report at the forty-eighth session of the Sub-Commission;

7. Requests the Secretary-General to provide all the assistance that the Special Rapporteur may require in the exercise of her mandate;

8. Decides to keep this item on its agenda, and recommends that the Commission on Human Rights continue to include it in its agenda also;

9. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution ... of ... August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the recommendations of the Sub-Commission that:

(a) The mandate of the Special Rapporteur, Ms. Halima Embarek Warzazi, be extended for two more years, in order to enable her to undertake an in-depth study to assess, inter alia, the differences and the similarities between traditional practices affecting the health of women and children in many parts of the world, taking into consideration, among other relevant documents and information, the conclusions and recommendations of the regional seminars and the effects of the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children;

(b) The Special Rapporteur submit her preliminary report to the Sub-Commission at its forty-seventh session and her final report at its forty-eighth session; and

(c) The Secretary-General be requested to provide all the assistance that the Special Rapporteur may require in the exercise of her mandate;

and recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council noting Commission on Human Rights decision ... of ... March 1995 and resolution ... of ... August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, approves the Commission's endorsement of the Sub-Commission's recommendations that:

(a) The mandate of the Special Rapporteur, Ms. Halima Embarek Warzazi, be extended for two more years, in order to enable her to undertake an in-depth study to assess, inter alia, the differences and the similarities between traditional practices affecting the health of women and children in many parts of the world, taking into consideration,

among other relevant documents and information, the conclusions and recommendations of the regional seminars and the effects of the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children; (b) that the Special Rapporteur be requested to submit her preliminary report to the Sub-Commission at its forty-seventh session and her final report at its forty-eighth session; and (c) that the Secretary-General be requested to provide all the assistance that the Special Rapporteur may require in the exercise of her mandate.'"

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Sub-Commission on Prevention
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Forty-sixth session
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mrs. Daes, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé,
Mrs. Gwanmesia, Mr. Hatano, Mr. Hakim, Mr. Khan, Mr. Maxim,
Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer:
draft resolution

Human rights dimensions of population transfer, including the implantation of settlers and settlements

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1990/17 of 30 August 1990 and 1991/28 of 29 August 1991, in which it decided to include the question of the human rights dimensions of population transfer, including the implantation of settlers and settlements, in its future work programme with a view to considering further effective action on this matter, and its resolution 1992/28 of 27 August 1992, in which it decided to entrust Mr. Awn Shawkat Al-Khasawneh and Mr. Ribot Hatano with the task of preparing a preliminary study on the question,

Recalling also its resolution 1993/34 of 25 August 1993 and Commission on Human Rights decision 1994/102 of 25 February 1994 requesting Mr. Al-Khasawneh to continue the study,

Recalling further that the Sub-Commission in its resolution 1992/28 recognized that practices of population transfer constitute a violation of fundamental human rights,

1. Takes note with appreciation and commends the progress report on the human rights dimensions of population transfer, including the implantation of settlers and settlements (E/CN.4/Sub.2/1994/18 and Corr.1) submitted by the Special Rapporteur, in particular section VI on state responsibility and population transfer;

2. Endorses the conclusions and recommendations contained in the progress report;

3. Requests the Special Rapporteur to submit a final report on the question to the Sub-Commission at its forty-seventh session;

4. Invites the Special Rapporteur to give due attention to cases of population transfer submitted to him in accordance with Commission decision 1994/102;

5. Welcomes Economic and Social Council decision 1994/272 of 25 July 1994 authorizing the organization of a multidisciplinary expert seminar prior to the preparation of the final report, in order to formulate appropriate final conclusions and recommendations;

6. Requests the Secretary-General to invite the Governments, United Nations bodies and intergovernmental and non-governmental organizations concerned which have not yet done so, to provide the Special Rapporteur with information relevant to the preparation of his reports;

7. Also requests the Secretary-General to provide the Special Rapporteur with all the assistance he may require for the preparation of his final report and the necessary assistance to compile and analyse the information and documents collected;

8. Invites the Special Rapporteur to undertake visits to the sites of diverse ongoing cases of population transfer selected on the basis of information received for his reports;

9. Decides to consider the final report of the Special Rapporteur at its forty-seventh session under the agenda item entitled "Freedom of movement".

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Sub-Commission on Prevention of
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of Minorities
Forty-sixth session
Agenda item 11

PREVENTION OF DISCRIMINATION AGAINST WOMEN

Ms. Feriol Echevarria, Mr. Bengoa, Mr. Boutkevitch, Mr. Chernichenko, Mr. Decaux, Mr. Fan, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guisse, Mrs. Gwanmesia, Mr. Khalil, Mr. Khan, Mr. Lindgren Alves, Mr. Maxim, Ms. Palley, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer:
draft resolution

Human rights of women and the girl child

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1992/4 of 14 August 1992,

Recalling also the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, which states that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights and that the human rights of women should form an integral part of the United Nations human rights activities (A/CONF.157/23, para. I.18),

Welcoming Commission on Human Rights resolutions 1993/46 and 1994/45 regarding the integration of the equal status of women and the human rights of women into the mainstream of United Nations system-wide activity,

Welcoming also the appointment by the Commission on Human Rights of the Special Rapporteur on violence against women and the appointment of a focal point for the human rights of women within the Centre for Human Rights,

1. Decides to consider the human rights of women and the girl child under every item of its agenda, as well as in all studies undertaken by the Sub-Commission;

2. Requests that all reports submitted at its forty-seventh session contain a gender perspective in their analyses and recommendations;

3. Requests the Secretary-General to ensure that United Nations human rights and humanitarian relief personnel recognize and deal with the human rights violations particular to women and carry out their work without gender bias;

4. Also requests the Secretary-General to report to the Sub-Commission at its forty-seventh session on the steps taken since the World Conference on Human Rights by special rapporteurs, experts, working groups, treaty bodies and other mechanisms of the Commission and the Sub-Commission to implement the integration of women's human rights into the United Nations system;

5. Decides to consider its consideration of the question at its forty-seventh session under the agenda item entitled "Prevention of discrimination against women".

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Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Ms. Daes: draft resolution

Draft United Nations declaration on the rights of indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1985/22 of 29 August 1985, 1991/30 of 29 August 1991, 1992/33 of 27 August 1992, 1993/46 of 26 August 1993,

Taking into account, in particular, paragraph 3 of its resolution 1993/46, in which it decided to postpone until its forty-sixth session consideration of the draft United Nations declaration on the rights of indigenous peoples agreed upon by the members of the Working Group, to request the Secretary-General to submit the draft declaration to the appropriate services in the Centre for Human Rights for its technical revision, and to submit, if possible, the draft declaration to the Commission on Human Rights with the recommendation that the Commission adopt it at its fifty-first session,

Recalling Commission on Human Rights resolution 1994/29 of 4 March 1994, in which the Sub-Commission was urged to complete its consideration of the draft United Nations declaration at its forty-sixth session and to submit it to the Commission at its fifty-first session together with any recommendations thereon,

Bearing in mind General Assembly resolution 47/75 of 14 December 1992, paragraph 12 of Commission on Human Rights resolution 1993/30 of 5 March 1993, paragraph 6 (a) of Commission resolution 1993/31 of 5 March 1993 and paragraph II.28 of the Vienna Declaration and Programme of Action,

Having considered the report of the Working Group on Indigenous Populations on its twelfth session (E/CN.4/Sub.2/1994/30), in particular the general comments on the draft declaration and the recommendations contained in chapters II and IX of the report respectively,

Taking into account the technical review of the draft declaration prepared by the Centre for Human Rights (E/CN.4/Sub.2/1994/2 and Add.1),

1. Expresses its satisfaction at the conclusion of the deliberations on the draft United Nations declaration on the rights of indigenous peoples by the Working Group on Indigenous Populations and the general views of the participants as reflected in the report of the Working Group on its twelfth session;

2. Expresses its appreciation to the Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene Daes, and to the present and former members of the Working Group for their contributions to the process of elaboration of the draft declaration;

3. Expresses its appreciation to the Centre for Human Rights for its technical revision of the draft declaration;

4. Decides:

(a) To adopt the draft United Nations declaration on the rights of indigenous peoples agreed upon by members of the Working Group as contained in the annex to the present resolution;

(b) To submit the draft declaration to the Commission on Human Rights at its fifty-first session with the request that it consider the draft as expeditiously as possible;

(c) To request the Secretary-General to transmit the text of the draft declaration to indigenous peoples and organizations, Governments and

intergovernmental organizations and to include in the note of transmittal the information that the draft declaration is to be submitted to the Commission on Human Rights at its fifty-first session;

(d) To request the Centre for Human Rights to include the draft declaration, as adopted by the Sub-Commission, as an annex to the revised Fact Sheet No. 9 and given the widest possible distribution;

5. Recommends that the Commission on Human Rights and the Economic and Social Council take effective measures to ensure that representatives of indigenous peoples are able to participate fully in the consideration of the draft declaration by these two bodies, regardless of their consultative status with the Economic and Social Council.

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Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Mr. Bengoa, Mr. Bossuyt, Mr. Chernichenko, Ms. Daes, Mr. Eide,
Mr. Guissé, Mr. Hatano, Mr. Hakim, Mr. Khalil, Mr. Khan,
Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Draft United Nations declaration on the rights of indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1985/22 of 29 August 1985, 1991/30 of 29 August 1991, 1992/33 of 27 August 1992, 1993/46 of 26 August 1993,

Taking into account, in particular, paragraph 3 of its resolution 1993/46, in which it decided to postpone until its forty-sixth session consideration of the draft United Nations declaration on the rights of indigenous peoples agreed upon by the members of the Working Group, to request the Secretary-General to submit the draft declaration to the appropriate services in the Centre for Human Rights for its technical revision, and to submit, if possible, the draft declaration to the Commission on Human Rights with the recommendation that the Commission adopt it at its fifty-first session,

Recalling Commission on Human Rights resolution 1994/29 of 4 March 1994, in which the Sub-Commission was urged to complete its consideration of the draft United Nations declaration at its forty-sixth session and to submit it to the Commission at its fifty-first session together with any recommendations thereon,

Bearing in mind General Assembly resolution 47/75 of 14 December 1992, paragraph 12 of Commission on Human Rights resolution 1993/30 of 5 March 1993, paragraph 6 (a) of Commission resolution 1993/31 of 5 March 1993 and paragraph II.28 of the Vienna Declaration and Programme of Action,

Having considered the report of the Working Group on Indigenous Populations on its twelfth session (E/CN.4/Sub.2/1994/30), in particular the general comments on the draft declaration and the recommendations contained in chapters II and IX of the report respectively,

Taking into account the technical review of the draft declaration prepared by the Centre for Human Rights (E/CN.4/Sub.2/1994/2 and Add.1),

1. Expresses its satisfaction at the conclusion of the deliberations on the draft United Nations declaration on the rights of indigenous peoples by the Working Group on Indigenous Populations and the general views of the participants as reflected in the report of the Working Group on its twelfth session;

2. Expresses its appreciation to the Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene Daes, and to the present and former members of the Working Group for their contributions to the process of elaboration of the draft declaration;

3. Expresses its appreciation to the Centre for Human Rights for its technical revision of the draft declaration;

4. Decides:

(a) To adopt the draft United Nations declaration on the rights of indigenous peoples agreed upon by members of the Working Group as contained in the annex to the present resolution;

(b) To submit the draft declaration to the Commission on Human Rights at its fifty-first session with the request that it consider the draft as expeditiously as possible;

(c) To request the Secretary-General to transmit the text of the draft declaration to indigenous peoples and organizations, Governments and

intergovernmental organizations and to include in the note of transmittal the information that the draft declaration is to be submitted to the Commission on Human Rights at its fifty-first session;

(d) To request the Chairman-Rapporteur of the Working Group to prepare an analytical note on the articles of the draft declaration and to submit it with the draft declaration to the Commission on Human Rights at its fifty-first session;

(e) To request the Centre for Human Rights to include the draft declaration, as adopted by the Sub-Commission, as an annex to the revised Fact Sheet No. 9 and given the widest possible distribution;

5. Recommends that the Commission on Human Rights and the Economic and Social Council take effective measures to ensure that representatives of indigenous peoples are able to participate fully in the consideration of the draft declaration by these two bodies, regardless of their consultative status with the Economic and Social Council.

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Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Ms. Daes: draft resolution

Discrimination against indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous peoples,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Recalling also General Assembly resolution 48/163 of 21 December 1993 on the International Decade of the World's Indigenous People,

Taking note with appreciation of the report of the Working Group on its twelfth session (E/CN.4/Sub.2/1994/30), and, in particular, of its conclusions and recommendations,

Taking note also of Commission on Human Rights resolution 1993/30, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights, in particular those contained in Part I, paragraph 20 and Part II, paragraphs 28 to 32 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

1. Expresses its deep appreciation to the Working Group on Indigenous Populations and in particular to its Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, for the work accomplished during its twelfth session;

2. Welcomes the proclamation by the General Assembly in its resolution 48/163 of 21 December 1993 of the International Decade of the World's Indigenous People to begin on 10 December 1994;

3. Requests the Secretary-General to transmit the report of the Working Group on its twelfth session to indigenous peoples and organizations, Governments and intergovernmental and non-governmental organizations as well as to all thematic rapporteurs, special representatives, independent experts and working groups;

4. Requests the Commission on Human Rights to recommend to the Economic and Social Council that it approve the participation of the Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene A. Daes, in the World Summit for Social Development, which will take place at Copenhagen in March 1995;

5. Requests the Secretary-General to prepare an annotated agenda for the thirteenth session of the Working Group on Indigenous Populations containing, inter alia, the following items: standard-setting activities, review of developments, the study of treaties and agreements and other constructive arrangements between States and indigenous peoples, the International Decade of the World's Indigenous People, a permanent forum for indigenous people, the

Voluntary Fund for Indigenous Populations and the United Nations operational activities and indigenous peoples;

6. Recommends the Commission on Human Rights to request the Economic and Social Council that the Working Group be authorized to meet for eight working days prior to the forty-seventh session of the Sub-Commission;

7. Decides to recommend to the Commission on Human Rights the following draft decision for adoption:

"The Commission on Human Rights, noting resolution ... of .. August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to recommend to the Economic and Social Council that it approve the participation of Ms. Erica-Irene A. Daes, Chairperson-Rapporteur of the Working Group on Indigenous Populations of the Sub-Commission in the World Summit for Social Development, which will take place at Copenhagen in March 1995; and requests that the Working Group be authorized to meet for eight working days prior to the forty-seventh session of the Sub-Commission."

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Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Mr. Bengoa, Mr. Bossuyt, Mr. Chernichenko, Ms. Daes,
Mr. Eide, Ms. Forero Ucros, Mr. Guissé, Mr. Hatano,
Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Ramadhane,
Ms. Warzazi and Mr. Yimer: draft resolution

Discrimination against indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous peoples,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Recalling also General Assembly resolution 48/163 of 21 December 1993 on the International Decade of the World's Indigenous People,

Taking note with appreciation of the report of the Working Group on its twelfth session (E/CN.4/Sub.2/1994/30), and, in particular, of its conclusions and recommendations,

Taking note also of Commission on Human Rights resolution 1993/30, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights, in particular those contained in Part I, paragraph 20 and Part II, paragraphs 28 to 32 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

1. Expresses its deep appreciation to the Working Group on Indigenous Populations and in particular to its Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, for the work accomplished during its twelfth session;

2. Welcomes the proclamation by the General Assembly in its resolution 48/163 of 21 December 1993 of the International Decade of the World's Indigenous People to begin on 10 December 1994;

3. Requests the Secretary-General to transmit the report of the Working Group on its twelfth session to indigenous peoples and organizations, Governments and intergovernmental and non-governmental organizations as well as to all thematic rapporteurs, special representatives, independent experts and working groups;

4. Requests the Commission on Human Rights to recommend to the Economic and Social Council that it approve the participation of the Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene A. Daes, in the World Summit for Social Development, which will take place at Copenhagen in March 1995;

5. Requests the Secretary-General to prepare an annotated agenda for the thirteenth session of the Working Group on Indigenous Populations containing, inter alia, the following items: standard-setting activities, review of

developments, the study of treaties and agreements and other constructive arrangements between States and indigenous peoples, the International Decade of the World's Indigenous People, a permanent forum for indigenous people, the Voluntary Fund for Indigenous Populations and the United Nations operational activities and indigenous peoples;

6. Recommends the Commission on Human Rights to request the Economic and Social Council that the Working Group be authorized to meet for eight working days prior to the forty-seventh session of the Sub-Commission;

7. Decides to recommend to the Commission on Human Rights the following draft decision for adoption:

"The Commission on Human Rights, noting resolution ... of .. August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to recommend to the Economic and Social Council that it approve the participation of Ms. Erica-Irene A. Daes, Chairperson-Rapporteur of the Working Group on Indigenous Populations of the Sub-Commission in the World Summit for Social Development, which will take place at Copenhagen in March 1995; and requests that the Working Group be authorized to meet for eight working days prior to the forty-seventh session of the Sub-Commission."

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Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Ms. Daes: draft decision

1994/... Study on treaties, agreements and other constructive arrangements between States and indigenous populations

At its ... meeting, on ... August 1994, the Sub-Commission, recalling its resolutions 1989/38 of 29 August 1989 and 1990/28 of 31 August 1990 and its decisions 1991/111 of 29 August 1991 and 1992/110 of 24 August 1992, welcomed the discussions held at the twelfth session of the Working Group on Indigenous Populations on the study on treaties, agreements and other constructive arrangements between States and indigenous populations by the Special Rapporteur, Mr. Miguel Alfonso Martínez, and decided to recommend to the Special Rapporteur to make all possible efforts to submit his second progress report in 1995 to the Working Group at its thirteenth session and to the Sub-Commission at its forty-seventh session, as well as his final report to both bodies in 1996. It also decided to request the Secretary-General to give the Special Rapporteur all the assistance necessary to allow him to continue his work, in particular by providing for the specialized research assistance required and for the necessary trips to Geneva for consultation with the Centre for Human Rights, and the resources needed for a research mission to the Vatican archives in Rome. The Sub-Commission further decided to recommend to the Commission on Human Rights that it request the Economic and Social Council to endorse its decision.

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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Ms. Daes: draft resolution

International Decade of the World's Indigenous People

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolution 48/163 of 21 December 1993, in which the Assembly proclaimed the International Decade of the World's Indigenous People, and Commission on Human Rights resolution 1994/26 of 4 March 1994,

Recalling also that the General Assembly in resolution 48/163 requested the Commission on Human Rights to invite the Working Group on Indigenous Populations to identify an appropriate date for the celebration of the International Day of Indigenous People,

Recalling further that the Commission on Human Rights in resolution 1994/26 requested the Working Group to identify possible programmes, projects and other activities in connection with the Decade,

Recognizing the importance of consulting and cooperating with indigenous peoples, the need for financial support from within the United Nations, and aware of the need to build on the results and lessons of the International Year,

Having considered the report of the Working Group on Indigenous Populations on its twelfth session (E/CN.4/Sub.2/1994/30),

1. Welcomes the proclamation by the General Assembly in its resolution 48/163 of 21 December 1993 of the International Decade of the World's Indigenous People, commencing on 10 December 1994;

2. Also welcomes the decision of the General Assembly that the goal of the Decade should be the strengthening of international cooperation for the solution of problems faced by indigenous people in areas such as human rights, the environment, development, education and health;

3. Stresses the importance of achieving the adoption of the draft United Nations declaration on the rights of indigenous peoples by the General Assembly before the conclusion of the Decade;

4. Takes note with appreciation of the note on the International Decade of the World's Indigenous People prepared by the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Mrs. Erica-Irene Daes (E/CN.4/Sub.2/1994/52);

5. Recommends that the International Decade have an operational focus and that the theme for the Decade be "Indigenous peoples: a new relationship: partnership in action";

6. Also recommends that attention be paid to improving the extent and effectiveness of indigenous participation in planning and implementing the activities for the Decade, including through the recruitment of indigenous staff by all relevant United Nations bodies and agencies, funds for this purpose being provided from the regular budget of the United Nations and the specialized agencies;

7. Decides to recommend that the International Day of Indigenous People be observed every year on 9 August, that date being the anniversary of the first day of the first meeting of the Working Group on Indigenous Populations in 1982;

8. Recommends that the Secretary-General establish, during the first quarter of 1995, the voluntary fund for the Decade foreseen in paragraph 14 of General Assembly resolution 48/163 and that he consider the appointment of a board of trustees including indigenous members to administer the fund;

9. Also recommends that a second technical meeting on the International Decade be convened prior to the thirteenth session of the Working Group on Indigenous Populations to consider the final programme of action for the Decade and that its suggestions be referred to the Working Group for elaboration;

10. Requests the Secretary-General to consider renewing the appointment of Mrs. Rigoberta Menchu Tum as United Nations Goodwill Ambassador.

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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Ms. Daes: draft resolution

Permanent forum in the United Nations for indigenous people

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights that the establishment of a permanent forum for indigenous people in the United Nations system should be considered,

Recalling the recommendations of the United Nations Conference on Environment and Development to involve indigenous people and their communities in the United Nations programmes of environment and development as stated in article 22 of the Rio Declaration on Environment and Development and in chapter 26 of the Agenda 21,

Recalling also General Assembly resolution 48/163 of 21 December 1993 and Commission on Human Rights resolution 1994/28 of 4 March 1994,

Noting the report of the secretariat on a permanent forum (E/CN.4/Sub.2/AC.4/1994/11) and the views expressed by Governments and indigenous organizations (E/CN.4/Sub.2/AC.4/1994/11/Add.1 and E/CN.4/Sub.2/AC.4/1994/CRP.3) and the notes of the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Ms. Erica-Irene Daes (E/CN.4/Sub.2/AC.4/1994/13 and E/CN.4/Sub.2/1994/30, annex 1),

Taking into account the comments and suggestions of participants at the twelfth session of the Working Group on Indigenous Populations,

1. Welcomes the request to the Commission on Human Rights by the General Assembly in its resolution 48/163 to give priority consideration to the establishment of a permanent forum for indigenous people in the United Nations system;

2. Requests the Secretary-General to invite Governments and indigenous organizations to express their views concerning the possible establishment of a permanent forum for indigenous people and to report on the comments and suggestions received to the Working Group on Indigenous Populations at its thirteenth session;

3. Recommends that any future permanent forum play an important role in operational coordination for development and that it enjoy observer status at all relevant Untied Nations bodies, including the Economic and Social Council, the Commission on Human Rights and the Commission on Sustainable Development;

4. Also recommends that the Centre for Human Rights organize a workshop on a possible permanent forum for indigenous people with the participation of representatives of Governments, indigenous organizations and independent experts.

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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Chavez, Mr. Chernichenko, Mr. Eide, Mr. Fan, Mr. Fix Zamudio, Mrs. Forero Ucros, Mr. Guissé, Mrs. Gwanmesia, Mr. Hatano, Mr. Hakim, Mr. Joinet, Mr. Khalil, Mr. Khan, Mrs. Koufa, Ms. Warzazi and Mr. Yimer: draft resolution

Protection of the heritage of indigenous people

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1991/32 of 29 August 1991 in which it decided to entrust Mrs. Erica-Irene A. Daes, as Special Rapporteur, with the task of preparing a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples,

Recalling also Economic and Social Council decision 1992/256 of 20 July 1992, in which the Council endorsed the appointment of Mrs. Daes as Special Rapporteur with the mandate to prepare a study on the protection of the cultural and intellectual property of indigenous peoples,

Recalling further Commission on Human Rights decision 1994/105 of 4 March 1994 by which it decided to endorse the request of the Sub-Commission to the Special Rapporteur to expand her study on the protection of the cultural and intellectual property of indigenous people (E/CN.4/Sub.2/1993/28) with a view to elaborating draft principles and guidelines for the protection of the heritage of indigenous people and to submit a preliminary report to the Sub-Commission at its forty-sixth session; and that the title of the study as a whole should be "Protection of the heritage of the indigenous people",

Noting Commission on Human Rights resolution 1994/29 of 4 March 1994, in particular paragraph 14 in which it expressed its appreciation to the Special Rapporteur for her timely completion of the study,

Having considered the preliminary report prepared by the Special Rapporteur (E/CN.4/Sub.2/1994/31),

1. Expresses its deep appreciation to the Special Rapporteur, Mrs. Erica-Irene A. Daes, for her comprehensive preliminary report on the protection of the heritage of indigenous people, as well as for her recommendations, and for the proposed principles and guidelines contained in the annex to the report;

2. Endorses the recommendations contained in the report, as well as the principles and guidelines which will constitute, after their adoption by the General Assembly, the first formal step towards committing the United Nations system to the protection of the heritage of indigenous people;

3. Requests the Secretary-General to submit the principles and guidelines to indigenous people's organizations, nations and communities, Governments, specialized agencies and intergovernmental and non-governmental organizations concerned for their comments;

4. Requests the Special Rapporteur to prepare her final report on the basis, inter alia, of the comments and information received and to submit it to the Sub-Commission at its forty-seventh session;

5. Requests the Secretary-General to provide the Special Rapporteur, with the necessary assistance to enable her to carry out her mandate successfully;

6. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution 1944/ ... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

decides to endorse the request to the Secretary-General to submit the principles and guidelines annexed to the preliminary report of the Special Rapporteur to indigenous people's organizations, communities and nations, as well as to Governments, specialized agencies and inter-governmental and non-governmental organizations concerned, for their comments; the request to the Special Rapporteur to prepare her final report on the basis, inter alia, of the comments and information received and to submit it to the Sub-Commission at its forty-seventh session; and the request to the Secretary-General to provide the Special Rapporteur with the necessary assistance to enable her to carry out her mandate successfully. The Commission recommends to the Economic and Social Council the following draft decision for adoption:

> 'The Economic and Social Council, noting decision 1995/... of ... February 1995 of the Commission on Human Rights, welcomes the preliminary report on the protection of the heritage of indigenous people (E/CN.4/Sub.2/1994/31) and the relevant principles and guidelines contained in its annex, expresses its deep appreciation to the Special Rapporteur, Mrs. Erica-Irene A. Daes, requests the Secretary-General to submit the principles and guidelines to indigenous people's organizations, communities and nations, as well as to Governments, specialized agencies and inter-governmental and non-governmental organizations concerned for their comments, authorizes the Special Rapporteur to prepare her final report taking into consideration, inter alia, the comments and information received and to submit it to the Sub-Commission at its forty-seventh session, and requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable her to carry out her mandate successfully.'"

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Mr. Bengoa, Mr. Bossuyt, Mr. Boutkevitch, Ms. Daes, Mr. Eide, Mr. Guissé, Mr. Hatano, Mr. Hakim, Mr. Khalil, Mr. Khan, Mr. Ramadhane, Ms. Warzazi and Mr. Yimer: draft resolution

Participation of indigenous persons and organizations in higher bodies of the United Nations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1993/46 of 26 August 1993, in which it recommended to the Commission on Human Rights and to the Economic and Social Council that they take special measures to enable indigenous peoples to participate fully and effectively, without regard to consultative status, in the consideration of the draft United Nations declaration on the rights of indigenous peoples,

Noting General Assembly resolution 48/163 of 21 December 1993 and Commission on Human Rights resolution 1994/26 of 4 March 1994,

Noting also Economic and Social Council resolution 1296 (XLIV) of 25 May 1968 on arrangements for consultation with non-governmental organizations,

Noting further that 12 indigenous organizations enjoy consultative status with the Economic and Social Council and that of these only one has its head office in the South,

Bearing in mind the request made by indigenous persons and organizations and certain observer Governments during the twelfth session of the Working Group on Indigenous Populations that steps be taken to ensure effective indigenous participation in future deliberations on the draft United Nations declaration on the rights of indigenous peoples in higher bodies of the United Nations regardless of consultative status with the Economic and Social Council,

Decides to recommend that the Commission on Human Rights approve the participation of indigenous persons and organizations, without regard to consultative status with the Economic and Social Council, in meetings of higher bodies of the United Nations, including the Commission itself, at which the draft United Nations declaration is discussed;

Decides also to recommend the following draft decision:

"The Commission on Human Rights, noting resolution ... of .. August 1994 of the Sub-Commission, decides to recommend to the Economic and Social Council that it approve the participation of indigenous persons and organizations, without regard to consultative status, in meetings of higher bodies of the United Nations, including the Commission itself, at which the draft United Nations declaration is discussed."